

SCHWARTZER & MCPHERSON LAW FIRM
 2850 South Jones Boulevard, Suite 1
 Las Vegas, Nevada 89146-5308
 Tel: (702) 228-7590 · Fax: (702) 892-0122

Jeanette E. McPherson
 Nevada Bar No. 5423
 Jason A. Imes
 Nevada Bar No. 7030
 Schwartz & McPherson Law Firm
 2850 South Jones Boulevard, Suite 1
 Las Vegas, Nevada 89146-5308
 Telephone: (702) 228-7590
 Facsimile: (702) 892-0122
 E-Mail: bkfilings@s-mlaw.com
Counsel for Lenard E. Schwartz, Chapter 11 Trustee

**UNITED STATES BANKRUPTCY COURT
 DISTRICT OF NEVADA**

In re: HOTEL FURNITURE SALES, INC., <div style="text-align: right;">Debtor.</div>	Case No. BK-S-09-29126-MKN Chapter 11 MOTION OF CHAPTER 11 TRUSTEE FOR CONVERSION OF CASE TO CASE UNDER CHAPTER 7 Date: OST pending Time: OST pending
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Lenard E. Schwartz, Chapter 11 Trustee ("Trustee") for the bankruptcy estate of Hotel Furniture Sales, Inc. (the "Debtor"), by and through his counsel, Schwartz & McPherson Law Firm, hereby files this *Motion of Chapter 11 Trustee for Conversion of Case to Case Under Chapter 7* (the "Motion") seeking an order of this Court converting the Debtor's bankruptcy case (the "Bankruptcy Case") from Chapter 11 to a case under Chapter 7 pursuant to 11 U.S.C. §§ 1106(a)(5) and 1112(b) and the *Declaration of Lenard E. Schwartz* filed concurrently with this Motion. In support of the Motion, the Trustee states as follows:

1. On or about October 12, 2009 (the "Petition Date"), Debtor filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code. The Debtor has continued to manage its affairs as debtor in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.
2. On or about July 13, 2010, the Court entered an *Order Granting Motion for Order Converting Case to Chapter 7 or for Appointment of Chapter 11 Trustee or Examiner* [Docket #150] directing the appointment of a Chapter 11 trustee for this case.

3. On or about July 13, 2010, the Office of the United State Trustee filed the *Appointment of Lenard E. Schwartz As Trustee For The Estate of Hotel Furniture Sales, Inc.* [Docket No. 151].

4. The Debtor is engaged in the business of selling furniture to the public.

5. Since his appointment, the Trustee, his staff and attorneys have been diligently working to understand the scope and value of the Debtor's business and property in an effort to promptly determine the most efficient manner to administer the assets of these estates.

6. The Trustee and the Debtor determined that post-petition financing would be necessary for the Debtor to successfully reorganize pursuant to Chapter 11.

7. The Debtor has confirmed, however, that it will be unable to obtain the post-petition financing required to adequately propose a Plan of Reorganization. (See confirming letter from Debtor's counsel attached as **Exhibit "1"**)

8. After a review and analysis, the Trustee submits that continuing in Chapter 11 will not result in a confirmable plan of reorganization. Furthermore, the Trustee submits that the Debtor's assets can be administered effectively and efficiently through the Chapter 7 process, thus removing the administrative costs and expenses associated with the pursuit of a liquidating Chapter 11 plan. (See Declaration of Lenard E. Schwartz.)

MEMORANDUM OF LAW

Pursuant to the plain language of the 11 U.S.C. § 1106(a)(5), the Trustee has an affirmative duty to, as soon as practicable, file a plan or recommend conversion or dismissal of the case. As noted above, since the Trustee's appointment, the Trustee, his staff and attorneys have been diligently working to analyze the operations and business affairs of the Debtor. However, given the circumstances outlined above, the Trustee, through this Motion, recommends that the Bankruptcy Case be converted to cases under Chapter 7.

Pursuant to 11 U.S.C. § 1112(b)(1) the court can convert to Chapter 7 for cause. Although the Bankruptcy Code does not specifically define the term "cause," the elements of what may constitute cause under § 1112(b) are set out in § 1112(b)(4) as follows in pertinent part:

“Cause” includes - (1) substantial or continuing loss to or diminution of the estate and the absence of a reasonable likelihood of rehabilitation; and (2) failure to maintain appropriate insurance that poses a risk to the estate or to the public.

See 11 U.S.C. § 1112(b)(4)(A) and (C).

The two elements listed above that can serve to establish “cause” for conversion to Chapter 7 pursuant to 11 U.S.C. § 1112(b) are both present in this Bankruptcy Case. As noted above, after analysis by the Trustee, there is no reasonable likelihood that the Debtor’s estate can be rehabilitated without post-petition financing. The Debtor is unable to secure financing required to continue operating the business, and the Debtor’s assets can be liquidated just as effectively and efficiently in Chapter 7 as in Chapter 11. Furthermore, if the Bankruptcy Case were to continue in Chapter 11, the Debtor’s estate does not contain the requisite cash necessary in order to fund the administrative expenses that will be incurred by the Debtor’s estate on an ongoing basis. (See *Declaration of Lenard E. Schwartzer.*)

Therefore, the Trustee submits that sufficient “cause” exists for this Court to convert this bankruptcy case to a case under Chapter 7.

CONCLUSION

WHEREFORE, the Trustee respectfully requests that this Court enter an Order converting this Bankruptcy Case to a case under Chapter 7 of the Bankruptcy Code, and for such other and further relief as this Court deems just and proper. A proposed form of order is attached as **Exhibit “2.”**

DATED: October 6, 2010

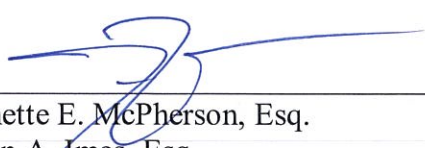

 Jeanette E. McPherson, Esq.
 Jason A. Ames, Esq.
 Schwartzer & McPherson Law Firm
 2850 South Jones Blvd., Suite 1
 Las Vegas NV 89146
 Attorneys for Lenard E. Schwartzer, Trustee

EXHIBIT “1”



LARSON & STEPHENS

A NEVADA LIMITED LIABILITY COMPANY
810 S. CASINO CENTER BLVD., SUITE 104
LAS VEGAS, NEVADA 89101

PHONE (702) 382-1170
FAX (702) 382-1169

September 30, 2010

VIA FACSIMILE TO (702) 892-0122

Lenard Schwartz, Esq.
Schwartz & McPherson
2850 S. Jones Blvd. #1
Las Vegas, NV 89146

Re: Hotel Furniture Sales, Inc. / BK-S-09-29126-MKN

Dear Mr. Schwartz:

This will confirm my conversation with Mr. Maybie yesterday where the Debtor will not be able to obtain financing to adequately propose a Plan of Reorganization in the above-referenced bankruptcy.

It is my understanding, and Mr. Maybie has been advised of such, that you will be filing a Motion to Convert to Chapter 7 and the business will be liquidated.

Should you have any questions or concerns, please do not hesitate to contact me. Thank you for your time and attention in this matter.

Sincerely,

LARSON & STEPHENS


Zachariah Larson, Esq.

ZL:ss

Cc: Bart K. Maybie

EXHIBIT “2”

Jeanette E. McPherson
Nevada Bar No. 5423
Jason A. Imes
Nevada Bar No. 7030
Schwartzter & McPherson Law Firm
2850 South Jones Boulevard, Suite 1
Las Vegas, Nevada 89146-5308
Telephone: (702) 228-7590
Facsimile: (702) 892-0122
E-Mail: bkfilings@s-mlaw.com
Counsel for Lenard E. Schwartzter, Chapter 11 Trustee

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In re:

HOTEL FURNITURE SALES, INC.,

Debtor.

Case No. BK-S-09-29126-MKN
Chapter 11

**ORDER GRANTING
MOTION OF CHAPTER 11 TRUSTEE
FOR CONVERSION OF CASE TO CASE
UNDER CHAPTER 7**

Date:
Time:

The Trustee's *Motion of Chapter 11 Trustee for Conversion of Case to Case Under Chapter 7* (the "Motion") [Docket # __] having come before this Court on the _____ day of _____, 2010; Lenard E. Schwartzter, Chapter 11 Trustee ("Trustee"), appearing by and through his counsel, Jason A. Imes, Esq. of the Schwartzter & McPherson Law Firm; no other parties appearing or filing written oppositions; the Court having reviewed the pleadings on file and argument of the parties, the Motion having been properly noticed, and the Court having made its findings of fact and conclusions of law upon the record, and for good cause appearing,

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Prepared by:

In accordance with LR 9021, counsel submitting this document certifies as follows (check one):

The court has waived the requirement of approval under LR 9021(b)(1).

____ No party appeared at the hearing or filed an objection to the motion.

____ I have delivered a copy of this proposed order to all counsel who appeared at the hearing, and any unrepresented parties who appeared at the hearing, and each has approved or disapproved the order, or failed to respond, as indicated above.

X I certify that this is a case under Chapter 7 or 13, that I have served a copy of this order with the motion pursuant to LR 9014(g), and that no party has objected to the form or content of the order.

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